

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Catherine McCaw	Team: Team # 4	CCRB Case #: 200409241	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 09/19/2004 , Monday, 09/20/2004 2:15 PM, Wednesday, 09/22/2004	Location of Incident: § 87(2)(b)	Precinct: 103	18 Mo. SOL 3/20/2006	EO SOL 3/20/2006	
Date/Time CV Reported Mon, 09/20/2004 4:48 PM	CV Reported At: Precinct	How CV Reported: Phone	Date/Time Received at CCRB Mon, 09/20/2004 4:48 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Reinaldo Alvarez	15342	927853	103 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Thomas Higdon	01261	911080	103 PCT
2. SGT Douglas Satchwell	03666	892628	103 PCT
3. POM Christophe Gallagher	09891	888737	103 PCT
4. SGT Walter Gorney	03446	906374	103 PCT
5. SGT John Sciametta	03698	914957	103 PCT
6. POM Michael Gibbs	30281	932709	103 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Reinaldo Alvarez	Discourtesy: PO Reinaldo Alvarez spoke rudely to § 87(2)(b) at § 87(2)(b)	§ 87(2)(b)
B.POM Reinaldo Alvarez	Discourtesy: PO Reinaldo Alvarez spoke rudely to § 87(2)(b) at § 87(2)(b) Queens.	§ 87(2)(b)
C.POM Reinaldo Alvarez	Discourtesy: Reinaldo Alvarez spoke rudely to § 87(2)(b) and § 87(2)(b) at the 103 Precinct Station House.	§ 87(2)(b)

Synopsis

At approximately 2:15 PM, on September 19, 2004, at § 87(2)(b) in Queens, § 87(2)(b) and her mother's fiancé, § 87(2)(b) got into an argument over a VCR. § 87(2)(b) dialed 911. PO Reinaldo Alvarez and PO Thomas Higdon were first to respond to the scene, and Sgt. Walter Gorney responded soon thereafter. After Sgt. Gorney left, PO Alvarez began to yell at § 87(2)(b) concerning the way she was raising her daughter, allegedly saying, "What kind of fucking mother are you? Why are you taking a man's side over your daughter's?" (Allegation A). § 87(2)(b) § 87(2)(b) sister, arrived. PO Alvarez allegedly said to her, "Lady, you're no fucking better than she § 87(2)(b) is" (Allegation B). After the officers departed, § 87(2)(b) and § 87(2)(b) decided to go the 103rd Precinct station house to file a CCRB complaint. While they were there, they again encountered PO Alvarez while they were talking to the desk officer, and he said to them, "Nobody fucking cares" (Allegation C).

On § 87(2)(b) after § 87(2)(b) gave her CCRB statement, § 87(2)(b) was arrested for § 87(2)(a) 160.50 stemming from the incident. The Queen's County District Attorney's office declined to prosecute the case. § 87(2)(b) made her first complaint at the 103rd Pct. on September 19, 2004, which was referred to the CCRB. On September 22, 2004, § 87(2)(b) made an additional complaint, which was referred to IAB, became IAB case number § 87(2)(b) and was subsequently referred to the CCRB, where it was added to this case.

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b) filed a report at the 103 Precinct station house on September 19, 2004. The complaint was received at CCRB on Monday, September 20, 2004. § 87(2)(b) was reached by telephone on September 23, 2004 and gave an initial statement in which she made additional allegations about incidents that had occurred after she filed her CCRB complaint. She gave an official statement on September 25, 2004 at CCRB in which she clarified her additional allegations. § 87(2)(g)

On September 19, 2004 at approximately 1:34 PM, § 87(2)(b) the daughter of complainant § 87(2)(b) called 911 after getting into an altercation with her stepfather, § 87(2)(b) over a VCR. She complained that her hand had been cut. PO Reinaldo Alvarez and his partner, subsequently identified as PO Thomas Higdon, responded to the scene first, and a sergeant and another officer, subsequently identified as Sgt. Walter Gorney and his operator, PO Michael Gibbs, responded shortly thereafter. After assessing the situation, Sgt. Gorney determined that the dispute was not serious. He was about to leave when § 87(2)(b) returned home. § 87(2)(b) spoke to Sgt. Gorney and the other officers. She characterized Sgt. Gorney as generally helpful and did not have complaints about the behavior PO Higdon or PO Gibbs. She informed Sgt. Gorney that her daughter was difficult to control, and Sgt. Gorney seemed to believe her. Sgt. Gorney and PO Gibbs left the scene.

§ 87(2)(b) told her daughter, "§ 87(2)(b) you really need to calm down. Go take a walk, right now." Upon hearing this remark, PO Alvarez's entire demeanor changed. He began to yell and curse at § 87(2)(b) § 87(2)(b) questioning her parenting skills and yelling, "What kind of fucking mother are you? How can you take a fucking man's side over your daughter's?" § 87(2)(b) and PO Alvarez began to get into a dispute. § 87(2)(b) did use profanity during the dispute. § 87(2)(b) § 87(2)(b) sister arrived on the scene after § 87(2)(b) called her on her cellular telephone. She tried to calm everyone down, and PO Alvarez began to yell at her. He told her, "They're all alike. Let's get the fuck out of here." At one point in time, he made a noticeable grab at his gun while the gun was in its holster.

After PO Alvarez and PO Higdon left the scene, § 87(2)(b) and § 87(2)(b) decided to go down to the station house to file a complaint against PO Alvarez. While they were there, they again encountered PO Alvarez while they were talking to the desk officer. He walked by and said, "Nobody gives a fuck." On

September 25, 2004, § 87(2)(b) stated that although both she and § 87(2)(b) were eventually able to file a report, they were forced to wait from 3:30 until 7:30 PM, merely to complete the paperwork.

§ 87(2)(b) had to go to the 103rd Precinct Station House on numerous occasions during the next few days to deal with her daughter, who ran away from home while § 87(2)(b) was filing a complaint on September 19, 2004. On September 22, 2004, while § 87(2)(b) was talking to a detective at the station house, she received a parking summons while she was parked in a space clearly marked as visitor's parking. She felt that she received the summons largely because she had become notorious.

Results of Investigation

Overview:

After taking § 87(2)(b) statement, it was concluded that § 87(2)(b) complaint consisted of three separate incidents: On September 19, 2004 at approximately 2:15 PM, PO Alvarez allegedly cursed at § 87(2)(b) and later her sister, § 87(2)(b) in front of § 87(2)(b) residence. He also allegedly cursed at § 87(2)(b) approximately one hour later when they encountered each other in the 103rd Precinct Station House. On September 22, 2004 at 6:06 PM, when § 87(2)(b) was being interviewed by a detective concerning child abuse claims made by PO Alvarez against § 87(2)(b) PO Gallagher issued § 87(2)(b) a parking summons while she was allegedly parked in visitor parking.

Witness/victim testimony:

On October 8, 2004, § 87(2)(b) § 87(2)(b) fiancé, and § 87(2)(b) § 87(2)(b) sister, were interviewed at § 87(2)(b), the home of § 87(2)(b) § 87(2)(b) was scheduled to give a statement that day as well, but she failed to appear. § 87(2)(g)

§ 87(2)(b) stated that on September 19, 2004, he and his stepdaughter, § 87(2)(b) got into an argument over a VCR. She took the VCR out of her parents' bedroom and into her own, and after § 87(2)(b) went into her room to retrieve it, she refused to give it back. § 87(2)(b) grabbed the VCR out of her hands, and in the process, § 87(2)(b) sustained a small laceration on her right hand. § 87(2)(b) ran downstairs called 911. PO Alvarez and PO Higdon responded to the scene and spoke to § 87(2)(b) and § 87(2)(b) outside of their residence at § 87(2)(b) in Queens. Later, Sgt. Gorney and his operator arrived.

After assessing the situation, Sgt. Gorney determined that the incident was nothing serious and departed. § 87(2)(b) was somewhat unclear on the details of the events that followed. He remembered PO Alvarez and § 87(2)(b) getting into an argument, and he recalls that PO Alvarez kept repeating questions like, "You are going to pay more attention to your man than to your daughter? What kind of mother are you?" He did not recall whether PO Alvarez used profanity, but he stated that he works as an EMT and tends to tune out profanity because it is a regular part of his job. § 87(2)(b) stated that during the entire incident, § 87(2)(b) remained calm and did not use any profanity.

§ 87(2)(b) arrived on the scene soon thereafter. § 87(2)(b) did not remember any exact statements that either PO Alvarez or § 87(2)(b) made, but he did state that PO Alvarez yelled at § 87(2)(b) § 87(2)(b) stated that she attempted to mediate the situation, but PO Alvarez responded, "Lady, you're no fucking better than she is." She also recalled that PO Alvarez said, "She § 87(2)(b) is not a good fucking mother. She is taking her boyfriend's side over her daughter's side."

Both § 87(2)(b) and § 87(2)(b) recalled that PO Alvarez made a noticeable grab to his gun. § 87(2)(b) said that PO Alvarez indicated his intent to leave by saying to his partner, "Let's get the fuck out of here." § 87(2)(b) said that PO Higdon had to order PO Alvarez into the car. § 87(2)(b) stated that § 87(2)(b) was "livid" as a result of the encounter, but that she did not curse.

After PO Alvarez and PO Higdon departed, § 87(2)(b) and § 87(2)(b) decided to go to the station house together to file a complaint. While they were speaking to the desk officer, whom § 87(2)(b) identified as Sgt. Douglas Satchwell, PO Alvarez walked by and sneered, "Yeah, you're fucking right." § 87(2)(b) also complained that she and her sister were forced to wait from a little after 3:00 PM until nearly 8:00 PM. Sgt. Satchwell seemed reluctant to give them the proper forms.

Officer Statements:

PO Alvarez, PO Higdon and Sgt. Gorney were identified as having responded to § 87(2)(b) house by their own accounts. Sgt. Sciametta was identified as the Tour 2 desk officer from the 103rd Pct. roll call for the date in question and was on duty at the time PO Alvarez noted his interaction in the station house with § 87(2)(b) took place. § 87(2)(b) identified Sgt. Douglas Satchwell as the sergeant she and her sister spoke to in order to file their complaint during her CCRB statement. PO Gallagher was identified from the summonses he issued to § 87(2)(b).

Memobook entries

PO Reinaldo Alvarez. At t/p/o § 87(2)(b) in Queens, PO Responded to a 34 Fam...Mother was loud and uncooperative. PO advised mother to talk to daughter and show mother love. PO stated child is upset. Next PO asked for mother § 87(2)(b). She stated to PO to go fuck myself you fucking pig. PO had to get information from c/v § 87(2)(b). PO stated mother was uncooperative and acting improper. PO believes there is reasonable cause to suspect child may be the victim of abuse/maltreatment.

1540 Upon return to station house at 1540 hr. mother § 87(2)(b) at station house. Mother stated again for me to go fuck myself in front of desk officer. PO advised desk officer of the problems w/ § 87(2)(b) at scene § 87(2)(b). § 87(2)(b) sister on scene also was uncooperative and improper. She stated to me that § 87(2)(b) daughter is a problem. PO advised the sister that I understand that there is a problem but the mother should show her daughter more love because she seems very upset. C/v was crying and wanting to leave. Next § 87(2)(b) sister stated to PO your [sic] a fuckin' asshole. You fuckin' rookie. Sgt Gorney on scene advised no arrest. DIR only. Partner PO Higdon also on scene."

PO Thomas Higdon. 1447 34 (family) § 87(2)(b) 90A. Child Distressed. Mother arrives on scene and is immediately rude and combative with PO Alvarez but not myself in apparent racist manner.

PO Walter Gorney. 1350 § 87(2)(b) 34. 1400 § 87(2)(b). 1416 98.

Other officers. Although Sgt. Douglas Satchwell, Sgt. John Sciametta and PO Christopher Gallagher were also interviewed in connection with this investigation, none of them has any memobook entries relevant to the incident.

Domestic Incident Report

PO Alvarez prepared a Domestic Incident Report on September 19, 2004 for the dispute between § 87(2)(b) and § 87(2)(b). The narrative reads, "At t/p/o c/v states had dispute with stepfather over a VCR. A confrontation occurred over the VCR. C/v suffered a minor cut on R+ hand when stepfather went to retrieve VCR. Mother on scene. Mother very uncooperative. Refused. Mother told PO to go fuck myself. Needs further investigation." Check boxes indicate that no arrest was made because no offense was committed.

CCRB interviews

On October 29, 2004, PO Higdon was interviewed at the CCRB. Sgt. Satchwell was interviewed on November 4, 2004. PO Alvarez was interviewed on November 12, 2004. Sgt. Sciametta was interviewed on November 17, 2004. Sgt. Gorney was interviewed on November 18, 2004. Finally, PO Christopher Gallagher was interviewed at the CCRB on November 19, 2004.

At approximately 2:00 PM on September 19, 2004, PO Higdon and PO Alvarez responded to a radio run for a family dispute at § 87(2)(b) in Queens. They were the first officers to respond to the scene, and Sgt. Gorney and his operator, PO Michael Gibbs, responded shortly thereafter. PO Higdon and PO Alvarez first spoke with § 87(2)(b) and § 87(2)(b) to determine what had happened. When Sgt. Gorney arrived on the scene, he spoke with the two family members and the two officers already on the scene. According to PO Higdon and PO Alvarez, after Sgt. Gorney did so, he determined that no arrest should be made and that the incident was merely a family argument rather than a crime. PO Alvarez stated during his interview that he felt that § 87(2)(b) should have been arrested.

§ 87(2)(b) arrived on the scene, and Sgt. Gorney stayed there for a brief period of time before leaving, in his estimation no more than two minutes. Both PO Alvarez and PO Higdon stated that § 87(2)(b) began yelling as soon as she arrived although they conceded that she yelled at her daughter while Sgt. Gorney was there rather than at PO Alvarez. Sgt. Gorney did not recall any particular problems with § 87(2)(b). He characterized her as concerned for her daughter and annoyed that § 87(2)(b) had called 911. All three agreed that § 87(2)(b) did not behave improperly towards Sgt. Gorney.

PO Higdon and PO Alvarez stated that § 87(2)(b) became irate with PO Alvarez after Sgt. Gorney departed. PO Alvarez said that § 87(2)(b) was crying and saying, "I don't want to live here anymore." § 87(2)(b) was yelling at § 87(2)(b) and telling her to leave. According to his own statement, PO Alvarez said to § 87(2)(b) "What is going on in your household? Why is there such a problem?" Both asserted that despite the fact that both PO Higdon and PO Alvarez said similar things, § 87(2)(b) focused her anger on PO Alvarez and did not have any problems with PO Higdon. PO Higdon stated his belief in his memobook that § 87(2)(b) selective anger was evidence of her racism, but he was not able to articulate any evidence of her racism other than the fact that she only got angry with PO Alvarez. She began to yell at PO Alvarez, telling him, "Go fuck yourself." PO Higdon did not recall whether PO Alvarez used profanity, but PO Alvarez stated positively that he did not.

Some time into the encounter, § 87(2)(b) arrived on the scene. PO Higdon stated that he did not remember the details of PO Alvarez's interactions with § 87(2)(b). PO Alvarez reported that § 87(2)(b) told him that § 87(2)(b) had been a discipline problem in the past and verbally abused him. Shortly thereafter, both PO Higdon and PO Alvarez left. Both stated that they left on PO Higdon's suggestion, but that PO Higdon did not have to drag PO Alvarez into the RMP.

PO Alvarez stated that he returned to the station house to write up an Administration of Children's Services report about the incident. While he was there, he saw § 87(2)(b) and § 87(2)(b) in front of the desk officer trying to file a CCRB complaint. He walked by, and they began to yell and curse at him again. § 87(2)(b) told PO Alvarez, "Go fuck yourself." Although PO Alvarez wrote in his memobook that she cursed in front of the desk officer, he stated in his interview that because of the commotion surrounding the change of tours, neither Sgt. Sciametta nor Sgt. Satchwell, the Tour 2 and Tour 3 desk officers respectively, heard. A few officers heard the remarks, but PO Alvarez could not recall who. Sgt. Sciametta had no recollection of § 87(2)(b) at all, and although Sgt. Satchwell recalled helping § 87(2)(b) he did not remember an altercation between § 87(2)(b) and PO Alvarez.

According to Sgt. Gorney, PO Alvarez informed him at the station house that there had been a problem with § 87(2)(b) after he had left the scene. PO Alvarez said that she was there to file a CCRB complaint because there had been an argument at the scene, but Sgt. Gorney could not recall any details related by PO Alvarez about either the confrontation at the scene or at the station house. As Sgt. Gorney was leaving for the day, he saw § 87(2)(b) in the waiting room. He asked her whether she had been helped, and she stated that she had. Sgt. Gorney said that she seemed upset, but she did not yell or use profanity with him. Sgt. Satchwell recalls helping § 87(2)(b) file a report. He does not recall any reason why it would have taken her a particularly long time to file the report.

PO Gallagher had no recollection of the parking summons he issued to § 87(2)(b) on September 22, 2004. He stated that PO Alvarez had not told him about his confrontation with § 87(2)(b) nor had he heard any rumors about § 87(2)(b) at the station house. He issued the summons without receiving any direction from anyone at the station house. He stated upon the orders of his commanding officer, if

someone is parked in the spaces designated as “visitor parking” the car is supposed to receive a parking summons because since 9/11, visitor parking has been suspended outside of the 103 Precinct station house. PO Gallagher stated that if someone is parked in one of those parking spaces, he usually walks into the station house and yells in the waiting room for the owner to move their car or receive a summons. PO Gallagher did not recall walking into the station house that day and states that he would recall doing so. He concluded that § 87(2)(b) was probably not actually parked in visitor parking.

Civilian and Officer Histories:

This complaint is the first that § 87(2)(b) has filed with CCRB. [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] PO Alvarez has had a allegations of threat of arrest and issuance of retaliatory a summons substantiated against him in CCRB Case 200302054. He received command discipline.

Conclusions and Recommendations

Disputed and Undisputed Facts:

It is undisputed that PO Alvarez and PO Higdon responded to § 87(2)(b) residence on September 19, 2004 at approximately 2:00 PM after her daughter, § 87(2)(b) called 911. While the officers were there, § 87(2)(b) and PO Alvarez got into an argument during which PO Alvarez dispensed parenting advice and § 87(2)(b) used profanity. Approximately one hour after PO Alvarez and PO Higdon departed from § 87(2)(b) house, PO Alvarez, § 87(2)(b) and § 87(2)(b) again met at the 103rd Pct. station house, where they again got into an argument. § 87(2)(g)

Credibility Assessment:

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation A: Discourtesy: PO Reinaldo Alvarez spoke rudely to § 87(2)(b) at § 87(2)(b) Queens.

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By all accounts, § 87(2)(b) and § 87(2)(b) had a confrontation with PO Alvarez only. Even after § 87(2)(b) was upset enough to file a complaint against PO Alvarez, she conversed with Sgt. Gorney in a reasonably cordial manner at the station house. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g) All three reported that PO Alvarez made some sort of statement along the lines of, “What kind of mother are you? Why are you taking a man’s side over your daughter’s side?” § 87(2)(g)

§ 87(2)(b) PO Alvarez admits in his memobook that he told § 87(2)(b) to show her daughter more “mother love,” § 87(2)(g)

§ 87(2)(g) Patrol Guide Procedure 203-09, which states that a police officer shall be “courteous and respectful.” § 87(2)(g)

§ 87(2)(g)

Allegation C: Discourtesy: PO Reinaldo Alvarez spoke rudely to § 87(2)(b) and § 87(2)(b) at the 103 Precinct Station House.

§ 87(2)(g)

§ 87(2)(b) remembers PO Alvarez saying, “Nobody fucking cares,” whereas § 87(2)(b) remembers him saying, “Yeah, you’re fucking right.” Neither of these statements is corroborated by any other witness, and PO Alvarez claimed that § 87(2)(b) cursed at *him*. § 87(2)(g)

Allegations not pleaded

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: